

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DON RYAN**, on January 13, 2005 at 7:05 P.M., in Room 303 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Don Ryan, Chairman (D)  
Sen. Gregory D. Barkus (R)  
Sen. Jerry W. Black (R)  
Sen. Jim Elliott (D)  
Sen. Kim Gillan (D)  
Sen. Bob Hawks (D)  
Sen. Sam Kitzenberg (R)  
Sen. Jesse Laslovich (D)  
Sen. Jeff Mangan (D)  
Sen. Dan McGee (R)  
Sen. Bob Story Jr. (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Lois O'Connor, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing and Date Posted: None.  
Executive Action: SB 152

Committee staff has noted conflicts in the amendments to SB 152 and will point out them out as they arise.

*{Tape: 1; Side: A; Time Counter: 2.3}*

**EXECUTIVE ACTION ON SB 152**

**SEN. KIM GILLAN** moved that SB 152 DO PASS.

**Motion:** **SEN. JEFF MANGAN** moved SB015201.aem.

**EXHIBIT** (eds09a01)

**Discussion:** **SEN. MANGAN** said that SB015201.aem addresses his concerns with the language "the state shall assess" and how and who assesses. SB015201.aem specifies that the Legislature shall determine the educational needs and costs of the basic system of free quality public elementary and secondary schools, and it gives the Legislature some flexibility in determining how to assess those needs.

**SEN. DAN MCGEE** requested the definition of "BASE". **Connie Erickson, Research Analyst, Legislative Services Division**, said that under 20-9-306, MCA, "BASE" means base amount for school equity. "BASE-aid" means the direct state aid for 44.7% of the basic entitlement and 44% of the total per-ANB entitlement for the general fund budget of a district and guaranteed tax base (GTB) for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

**SEN. MCGEE** asked if **SEN. MANGAN** was anticipating that the state would need a study prior to the completion of the Committee's work during this legislative session. **SEN. MANGAN** said that if this Legislature or future Legislatures wanted to conduct a study, they could, or the Legislature could use studies that have already been completed, or it could rely on the work of the Public School Renewal Commission.

**SEN. BOB STORY** supported SB 015201.aem because it gives the ability to conduct studies or use existing studies. The District Court's decision stated that there were no studies done to support the current school funding system. He believed that there were existing studies that could be used. However, his concern with the amendment is that SB 152 identifies what the basic system is and educationally relevant factors. Unless a study is designed to support the conclusions of the bill, he was uncertain whether the studies would tie to the bill. **SEN. STORY** added that another concern is that the amendment will tie the bill to the existing funding system which the Court has said is not the right system. He felt that the amendment would be more workable if

there was no mention of the present funding system. The language would say "the state's share will be equitably distributed....".

**SEN. DON RYAN** felt that the amendment did not tie the Legislature to the current funding structure because it provided an option.

**SEN. MANGAN** said that he tried not to jump ahead to other steps and make assumptions that are not in practice. He felt that **SEN. STORY'S** concerns could be handled through the codification instruction.

**Vote:** **SEN. MANGAN'S** motion carried unanimously on a voice vote.

**Motion:** **SEN. GILLAN** moved SB015203.aem.

**EXHIBIT**(eds09a02)

**Discussion:** **SEN. GILLAN** said that SB015203.aem addresses accreditation standards and local control. Instead of referring back to another part of the statute, it makes Section 3 in SB 152 less time sensitive.

**SEN. STORY** opposed the amendment because it (1) puts language in statute regarding the minimum standard by which the basic system is free and (2) because it includes references to what local districts and the federal government want in the definition of a basic quality school system. He said that there should be no reference to those two entities because the Legislature has no control over them. **SEN. RYAN** said that there is tremendous pressure put on school districts by the federal government to meet certain standards. In order for the state to meet its maintenance of effort, school districts must take away from other programs in their curriculums. If school districts need more funding, they should not be forced to decrease their programs to meet those standards, and the state needs to help.

**SEN. STORY** said that the Committee discussed the fact that local districts could offer programs that were not mandated or required by the state. According to the amendment, if local districts do that, it, by law, becomes part of the basic system of quality schools. The same applies to federal law. **SEN. STORY** added that the Legislature did not approve Goals 2000, and it did not become a part of the basic system of education in Montana. However, OPI and local school districts went to the federal government, got access to the money, and took the responsibility. At some point, the federal government may put a program into place that the Legislature does not want, but with the amendment, any federal law that is passed will automatically become part of the basic system whether it is approved, accepted, or not. That is the wrong way to go in SB 152.

**SEN. GILLAN** said that the reality is that there are federal laws and local issues that have eroded the ability of schools to provide a quality education. It is counterintuitive to not reference and consider local, state, and federal requirements.

**SEN. RYAN** asked if, for example, a local district requires that a high school require three credits of physical education in order to graduate, will it make that requirement part of the system.

**Ms. Erickson** said that the amendment refers to requirements imposed on school districts by local, state, or federal laws. The question is, What is meant by local law? She said that the amendment does not mean that school districts could impose requirements and then receive funding, but rather, that three different governmental entities could impose requirements on school districts themselves, not necessarily the school district imposing the requirements.

*{Tape: 1; Side: B; Time Counter: 2.3}*

**SEN. JIM ELLIOTT** questioned why minimum standards upon which a basic system of free quality public elementary and secondary schools was not referenced in SB 152. **Ms. Erickson** said that the minimum standards in the amendment refers to the accreditation standards. **SEN. ELLIOTT** asked if the accreditation standards were referenced in 20-7-111, MCA, why is the language struck from the bill. **SEN. GILLAN** responded that she was attempting to clarify that the standards were minimum and that there was value in not using the citation. The amendment ties the accreditation standards to the fact that they are the minimum standards upon which a basic system is built.

**Vote:** **SEN. GILLAN'S** motion carried on a 6 to 5 roll call vote with **SENATORS BARKUS, BLACK, ELLIOTT, MCGEE, and STORY** voting no.

*{Tape: 1; Side: B; Time Counter: 6.8}*

**Motion:** **SEN. SAM KITZENBERG** moved SB015202.ace.

**EXHIBIT** (eds09a03)

**Discussion:** **SEN. KITZENBERG** said that the U.S. Congress believes that civic education has been pushed aside by other programs in school curriculums. The concern is that the nation has lost its civic responsibility in that the current generation is not participating in the republic as much as it should. In attending two national conferences on civic education, conference members requested that attendees return to their home states and suggest putting civic education back into the definition of a quality education, which is what the amendment does.

**SEN. RYAN** opposed the amendment because the issue of civic education is better addressed in the accreditation standards.

**Vote:** **SEN. KITZENBERG'S** amendment failed on a 5 to 6 roll call vote with **SENATORS BLACK, ELLIOTT, KITZENBERG, LASLOVICH, and MANGAN** voting aye.

*{Tape: 1; Side: B; Time Counter: 12.2}*

**Motion:** **SEN. GREGORY BARKUS** moved amendment #SB015203.ace.

**EXHIBIT** (eds09a04)

**SEN. BARKUS** felt that the Supreme Court was not clear in its order and that SB 152 should not say that it was clear. The amendment also provides incentives to school districts to recruit and retain qualified teachers and requires an annual evaluation of teachers by local school district administrators. **SEN. BARKUS** said if Montana is offering a quality education, it must know that the teachers are of quality.

**Ms. Erickson** said that if adopted, amendment #1 of SB015203.ace will conflict with a proposed amendment by **SEN. McGEE**. **SEN. McGEE** said that if SB015203.ace is adopted as written, he may not offer his amendment.

**SEN. GILLAN** asked if the proposed annual evaluation would be required of teachers or required on the need to have incentives to retain teachers. **SEN. BARKUS** said the amendment's intent is to annually evaluate teachers to determine their qualifications.

**SEN. ELLIOTT** opposed SB015203.ace because the word "ability" subsumes any potential incentives for teachers and the school boards ability to make those determinations.

**SEN. MANGAN** pointed out that his amendment provides the Legislature with the flexibility to review local district teacher evaluations.

**SEN. RYAN** said that he did not oppose amendment #1 of SB015203.ace because the Supreme Court has only issued a preliminary order. Referring to amendment #2, **SEN. RYAN** asked about the difference between allowing an adjustment for the ability to recruit and retain teachers and the language "incentives" to enable recruitment and retention. **SEN. BARKUS** responded that his language provides "sideboards" to local districts and the state to create incentives. The basic process of recruiting and retaining teachers does not have the ability to offer incentives.

**SEN. STORY** said that the amendment talks about the ability of schools to recruit and retain teachers which is a subject that the Committee has discussed. The amendment could be saying that one of the difference that could be defended in Court is that the Legislature reviewed this relevant factor and found that rural areas are having trouble recruiting teachers. The amendment would clarify that for certain school districts and teachers under certain circumstances, the Legislature wants to provide incentives for districts to recruit and retain teachers. The funding formula will make those differentiations.

**SEN. JERRY BLACK** said that the amendment does not require school districts to recruit and retain quality teachers, but provides the "ability" for school districts to recruit and retain quality teachers so that they can compete salary- and benefit-wise on a nationwide basis. In addition, teachers are the heart of Montana's school system and provide the quality education. In doing so, an annual evaluation is appropriate.

**SEN. GILLAN** asked **Erik Burke, MEA-MFT** to clarify whether school districts currently require annual evaluations. **Mr. Burke** said that most but not all of the current Montana contracts specify annual evaluations.

**SEN. MANGAN** said that the ability to recruit and retain teachers is a factor and, an incentive is a way to address that factor in the next step. **SEN. BARKUS** responded that he was unsure how the language "ability" could be put in statute when it is unknown whether a school district has the ability to do anything. He added that educationally relevant factors include the ability to recruit and retain teachers and striking the language "in areas of the state experiencing problems..." is not germane in defining a quality educational system.

*{Tape: 2; Side: A; Time Counter: 1.4}*

**SEN. RYAN** felt that amendment #3 delves into local control when principals are required to conduct evaluations on every teacher every year. On Page 3, line 22, he suggested the conceptual language: "the incentives to enable the recruitment and retention of qualified teachers."

**SEN. ELLIOTT** said that he sees the need to not say "incentive" because an incentive implies that a school district cannot afford to hire a quality teacher or a school district has the ability to offer or pay more than another school district equally deserving. As a result, "incentive" has the potential to set up inequities between school districts. The word "ability" is more legalitarian, more inclusive, and more accurate.

**SEN. MANGAN** agreed and opposed the conceptual amendment offered by **SEN. RYAN**.

**Substitute Motion:** **SEN. STORY** made a substitute motion to segregate the amendments in SB015203.ace.

**Vote:** Amendment #1 of SB015203.ace carried 10 to 1 by voice vote with **SEN. JESSE LASLOVICH** voting no.

**Vote:** Amendment #2 of SB015203.ace carried 6 to 5 on a roll call vote with **SENATORS BARKUS, BLACK, HAWKS, KITZENBERG, McGEE, AND STORY** voting aye.

**Motion:** **SEN. RYAN** made a substitute motion to amend #3 of SB015203.ace by striking the language referring to "in areas of the state".

**SEN. STORY** felt that the language referring to "in the areas of the state" needs to remain in the bill. As a result, he will oppose both **SENATORS BARKUS AND RYAN'S** amendments.

**Ms. Erickson** added that if #3 of SB015203.ace is passed, it will conflict with an amendment proposed by **SEN. STORY** regardless of how it is passed.

**SEN. RYAN** withdrew his substitute motion and **SEN. BARKUS** withdrew amendment #3 from SB015203.ace.

*{Tape: 2; Side: A; Time Counter: 25.6}*

**Motion:** **SEN. BOB HAWKS** moved amendment #SB015201.acl and provided background information on a quality education.

**EXHIBIT**(eds09a05)

**EXHIBIT**(eds09a06)

**Discussion:** **SEN. HAWKS** said that he was asked by the Chamber of Commerce to develop a definition of quality education and how it could be implemented in the simplest of terms. He added that his concern with SB 152 has been how to integrate the request into the bill and equate quality schools as producing quality education. **SEN. HAWKS** felt that the basic definition in SB 152 did not give a sense of the Committee's overall goal. SB015201.acl is an attempt to state what it is that quality teachers produce and what Montana schools and universities desire in their students. He said that he was not proposing a new system but suggesting that all students should be learning to their level of ability.

**SEN. MCGEE** asked if **SEN. HAWKS** would consider the inclusion of the language "to research and investigate". **SEN. HAWKS** responded that inherent in his definition is the process of critical thinking and learning how to discern and work with the facts, which is basically the gist of his amendment.

**SEN. RYAN** said that in producing a definition of a school system and the state's responsibility to provide that system, SB 152 attempts to review the educationally relevant factors which can be tied to a funding structure. He felt that the definition in SB015201.acl belonged at the front of the school board manuals. He asked how the state could fund "potential to think deliberatively". **SEN. HAWKS** said that in the process of teaching in the classroom, a good teacher integrates a process of learning into the subject matter that creates deliberative thinking. It is the way it is presented and the way the teacher asks the student to recognize and manipulate the material to create deliberative thinking. It is a basic process that is seen every day in the classroom. He felt that the principle was so general that it could apply as an overall goal of a quality education. It does not dictate anything other than the basic learning process. **SEN. RYAN** said that he opposes moving toward an outcome-based situation because it opens a pandora's box if a parent comes to a school and says that the school did not meet the needs or full potential of that parent's child. He said that the state could not create individual education plans for each student in every district. SB 152 gives local school boards the tools necessary to create a quality product and decide where it is going to go with that quality. As a result, school boards cannot come back to the state and say that they do not have the funds to meet the accreditation standards.

**SEN. STORY** said that **SEN. RYAN'S** argument was a perfect example of why standards should not be mentioned in the whole issue. Most of the standards adopted by the Board of Public Education are just as vague as **SEN. HAWKS'** amendment. If accreditation standards were going to be included in SB 152, he saw no reason why **SEN. HAWKS'** definition should not be included also.

**SEN. HAWKS** said that his amendment only codifies the profile of a good teacher in a good system in trying to raise each student to the level of their abilities. He does not see it as a drag on the system but a goal which elevates the system.

Following a brief recess, **SEN. HAWKS** withdrew his amendment for further discussion with outside experts. He will decide whether to reintroduce it at a later date.



Because the Committee did not complete its discussion of all proposed amendments to SB 152, it will meet upon adjournment of the Committee of the Whole on January 14, 2005, to complete its work.

**RECESS**

Recess: 9:25 P.M.

---

SEN. DON RYAN, Chairman

---

LOIS O'CONNOR, Secretary

DR/LO

Additional Exhibits:

**EXHIBIT ([eds09aad0.PDF](#))**